

**REMARKS**

The present remarks are in response to the Office Action dated April 15, 2009, in which the Office Action issued a rejection of claims 50-62. In this response, Applicant has amended the independent claims 50 and 57. Additionally, the Applicant has cancelled claim 52. In this Amendment and response, the Applicant provides detailed comments to overcome the rejections, and respectfully requests that the pending claims be placed in a state of allowance. No new matter has been added.

**A. Claim Limitations**

In the most recent Office Action, the Examiner rejected claims 50-62. Although the Applicant disagrees with the Examiner's grounds for rejection, the Applicant has modified the independent claims 50 and 57 to include claim amendments that overcome the Examiner's rejection.

Firstly, the Applicant's independent claims 50 and 57 have been amended to include a battery associated with the wireless communications device, in which a processor associated with the wireless communication device receives power from the battery and can control and monitor the discharge state of the battery. Additionally, the active state enables power consumption by the wireless device is minimized. Support for the battery 108 and the processor 102 is provided in *inter alia* Figure 1 and Paragraphs [0019] - [0022] in the associated Published Patent Application 2002/0165000.

Secondly, the Applicant has amended the independent claims to include the proxy server configured to convert at least a portion of the intercepted instant message to a short message format, and sends a converted message with the portion of the intercepted message to the wireless communications device through the wireless network via the SMS center. This claim element substantially comes from recently cancelled claim 52. Additionally, the claim element includes sending a converted message with the portion of the intercepted message to the wireless device; support for this claim element is provided in *inter alia* Paragraphs [0010], [0036], and [0039] in the associated Published Patent Application 2002/0165000.

Thirdly, the independent claims include the proxy server configured to save the entire intercepted instant message for a period of time, wherein a data connection to connect to the proxy server enables viewing the entire intercepted instant message. Support for this claim element is provided in *inter alia* Figure 3 (block 304) and Paragraph [0039] in the associated Published Patent Application 2002/0165000.

Fourthly, the claims have been amended to include the wireless device configured to receive the portion of the short message while the wireless device is in the active state to minimize power consumption by the wireless device. Support for this claim element is provided in *inter alia* Paragraphs [0007] and [0010] in the associated Published Patent Application 2002/0165000.

## **B. Obviousness Rejections (35 U.S.C. § 103)**

The Examiner has rejected claims 50-56 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,714,793 issued to Carey et al. (hereinafter referred to as "Carey") in view of U.S. Patent No. 6,564,261 issued to Gudjonsson et al. (hereinafter referred to as "Gudjonsson"). The Examiner has also rejected claims 57-62 under 35 U.S.C. §103(a) as being unpatentable over Carey in view of Gudjonsson and U.S. Patent Publication 2003/0018704 to Polychronidis et al. (hereinafter referred to as "Polychronidis") and further in view of US Patent 7,043,538 to Guedalia et al. (hereinafter referred to as "Guedalia").

Again, the Applicant respectfully disagrees with the Examiner's grounds for rejection, however to expedite the prosecution of this patent application the Applicant has amended the claims as described above.

In the previous response, the Applicant amended the claims to include an *active status in which the wireless communication device is powered up but is not connected to the wireless communication network*. Additionally, the Applicant's proxy server for transmitting presence information to messaging service occurred, *after receiving login information associated with the instant messaging service, wherein the login information is communicated from the wireless communication device*. Furthermore, the Applicant's amended claims included *the proxy server configured to maintain the presence information even when the data connection*

does not exist and the proxy server for intercepting and storing an instant message addressed to the wireless communications device, *when the wireless communication device is in the active state*.

In the Examiner's most recent action, the Examiner argues that these previously submitted amendments are taught by the cited references. More particularly, the Examiner appears to argue that the *active status in which the wireless communication device is powered up but is not connected to the wireless communication network* is taught by Carey and that one of ordinary skill in the art would recognize the active state. See Page 3-4 of the Examiner's Action.

The Examiner also argues that the proxy server for transmitting presence information to messaging service occurred, *after receiving login information associated with the instant messaging service, wherein the login information is communicated from the wireless communication device* is described by Carey at col. 4, lines 15-22 and Figure 5. Carey describes the user entered into the routing server's web site by completing a logon with password verification and the user "begins instant message name list (i.e. buddy list) creation." Carey continues with by describing if the cell phone user knows the instant message name that corresponds to a desired recipient, the user enters the instant message name.

With respect to the Applicant's amended claims including *the proxy server configured to maintain the presence information even when the data connection does not exist and the proxy server for intercepting and storing an instant message addressed to the wireless communications device, when the wireless communication device is in the active state* the Examiner referred to Carey at col. 3, lines 19-22; col. 5, lines 8-16; col. 9, lines 35-38; col. 5, lines 66-67; and Figure 1. Carey appears to describe an instant message routing system that includes a routing server and database. Carey also teaches a status update of the last communication with the instant message routing server. Carey teaches storing the instant message until the recipient has signed on. Also, the functions performed by the routing system may be combined with the instant message server.

Applicant respectfully disagrees with the Examiner's rejections because the Applicant does not appreciate the combination of previously submitted claim elements. The **combination** of having coupled the user log-in process with enabling

the instant messaging service and maintaining the presence information (on the proxy server) when the wireless communication device is in an active state. Thus, the Applicant claims a first situation where the wireless device is able to provide login information and is received by the proxy server – in this state the wireless device is communicating with the proxy server. Additionally, the Applicant is claiming an active mode (wireless device not connected to the network), yet the proxy server maintains the presence information even when the data connection to the proxy server does not exist.

Applicant respectfully submits that this combination is not taught by Carey and that Carey teaches away from this because the login information in Carey is used to access a buddy list that requires all buddies to be available. Conversely, Applicant claims are directed to maintaining presence information even when a data connection does not exist and when the device is in the active state.

As stated by the Applicant's patent application, while the user can participate in instant messaging through a wireless connection, using the wireless data connection incurs airtime fees and can deplete battery resources as quickly as a voice call. See Paragraph [0006]. Applicant respectfully submits that Carey is not drawn to resolving this particular problem.

Regardless of the Applicant disagreeing with the Examiner's grounds for rejection, the Applicant has amended the claims to expedite the prosecution of this patent application. More particularly, the Applicant claims a battery associated with the wireless communications device, in which a processor associated with the wireless communication device receives power from the battery and can control and monitor the discharge state of the battery, and an active state, in which the wireless communications device is powered up but is not connected to the wireless communication network so that power consumption by the wireless device is minimized.

Applicant respectfully submits that Carey and Gudjonsson fail to teach a battery associated with a wireless communication and an active state that minimizes power consumption of the wireless device.

The Applicant continues by including limitations directed to the proxy server configured to convert at least a portion of the intercepted instant message to a short

message format and to send a converted message with the portion of the intercepted message to the wireless communications device through the wireless network via the SMS center. This claim element is drawn from recently cancelled claim 52 that the Examiner previously rejected based on Carey at col. 7, lines 12-22; col. 3, lines 24-27 and 50-66; and Figures 1 and 6-7, where the server 24 uses a "predefined to protocol" to convert messages between instant message and short message service. Applicant respectfully submits that the identified sentences/sections refer to routing short messages and instant messages and not the "portion of the intercepted message" that is claimed by the Applicant.

The Applicant has also amended the claims to include the proxy server configured to save the entire intercepted instant message for a period of time, wherein a data connection to connect to the proxy server enables viewing the entire intercepted instant message. Thus, the user can access the portion of the intercepted message when the wireless communications device is in an active state and can then view the entire message when there is a data connection to the proxy server. Additionally, the proxy server stores the entire intercepted instant message for a period of time.

Applicant submits that the combination of the "portion of the intercepted message" communicated to the wireless device *and* the proxy server configured to save the entire intercepted instant message for a period of time, wherein a data connection to connect to the proxy server enables viewing the entire intercepted instant message, is not taught by the cited references.

The Applicant has also amended the claims to include the wireless device configured to receive the portion of the short message while the wireless device is in the active state to minimize power consumption by the wireless device. Thus, receipt of the *portion of the short message* in the active state is performed to minimize power consumption by the wireless device. Applicant respectfully submits that the cited references fail to teach this limitation.

With respect to Polychronidis as applied to claims 57-62, the Applicant respectfully submits that Polychronidis merely teaches a push or pull agent that accepts queries for presence/location information from an application (See pg. 3, paragraph 34-35, 37). The pull agent then queries the Home Location Register

(HLR) of the wireless network for the requested information, and relays this information to the application. In view of Applicant's claim amendments, Applicant respectfully submits that Polychronidis is inapplicable.

With respect to Guedalia as applied to claims 50 and 57, the Applicant respectfully submits that Guedalia merely teaches a presence server that "maintains an active session" with an external server (i.e., instant messaging service) even when a user is disconnected from the presence server (col. 5, lines 4-10). There is no teaching or suggestion in Guedalia that the presence server "actively" transmits presence information to the external server (i.e., instant messaging service) to fool it into thinking that the user (i.e. wireless communications device) is online even when he/she is disconnected from the presence server. Applicant respectfully submits that an "active state" maintained by the presence server does not mean that the presence server is actively transmitting presence information to the external server when the user is logged into the instant messaging server and the wireless communication device is in active state, in which the wireless communication is powered up but is not connected to the wireless communication network.

With respect to Chen, the cited sections of Chen (col. 1, lines 63-65 and FIGs 1 and 4) merely teach that a proxy server can facilitate the transmission of SMS messages. Chen is completely silent as to the proxy server having any capability of actively transmitting presence information to the one or more of the network servers to indicate that the wireless device is online even when the wireless device is disconnected from the proxy server.

**D. Conclusion**

In view of all of the foregoing, claims 50-51 and 53-62 overcome the Office Action rejections herein and are now patentably distinct and in condition for allowance, which action is respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted;

Dated: 12/15/09

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